

SENATE BILL 504

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2003 Regular Session
3r1458
CF 3r1575

By: **Senators Klausmeier, Exum, Pipkin, Middleton, Gladden, and Kelley**
Introduced and read first time: January 31, 2003
Assigned to: Finance

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: February 21, 2003

CHAPTER _____

1 AN ACT concerning

2 **Electricity - Universal Service Program - Extension and Funding**

3 FOR the purpose of continuing a certain electric universal service charge at a certain
4 level for certain purposes; providing assistance for the retirement of certain
5 arrears for certain electric customers, subject to a certain limitation;
6 authorizing the waiver of a certain income eligibility limitation for certain
7 electric customers under certain circumstances; requiring the Public Service
8 Commission to make certain recommendations based on certain factors in a
9 report each year to the General Assembly; repealing a provision providing for
10 the determination of a certain charge for certain purposes only after
11 recommendation by the Commission and enactment of legislation; requiring the
12 Office of Home Energy Programs to report certain information to the
13 Commission; requiring the Office of Legislative Audits to perform certain audits
14 of the universal service program at certain intervals; requiring the initial audit
15 to be completed on or before a certain date; providing for the retention of certain
16 funds in the universal service program fund for certain purposes for certain
17 periods; providing for the return of certain funds to certain electric customer
18 classes in a certain proportion and a certain manner after a certain period;
19 making stylistic changes; providing for the effective date of a portion of this Act;
20 and generally relating to the electric universal service program and the
21 universal service program fund.

22 BY repealing and reenacting, without amendments,
23 Article - Public Utility Companies
24 Section 7-512.1(g) and (h)(1) through (4)
25 Annotated Code of Maryland
26 (1998 Volume and 2002 Supplement)

1 BY repealing and reenacting, with amendments,
2 Article - Public Utility Companies
3 Section 7-512.1(a), (b), (c), (d), and (h)(5)
4 Annotated Code of Maryland
5 (1998 Volume and 2002 Supplement)

6 BY repealing
7 Article - Public Utility Companies
8 Section 7-512.1(e) and (f)
9 Annotated Code of Maryland
10 (1998 Volume and 2002 Supplement)

11 BY renumbering
12 Article - Public Utility Companies
13 Section 7-512.1(g) and (h), respectively
14 to be Section 7-512.1(e) and (f), respectively
15 Annotated Code of Maryland
16 (1998 Volume and 2002 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article - Public Utility Companies**

20 7-512.1.

21 (a) (1) The Commission shall establish a universal service program to assist
22 electric customers with annual incomes at or below 150% of the federal poverty level.

23 (2) The Department of Human Resources shall be responsible for
24 administering the universal service program through the [Maryland Energy
25 Assistance Program] OFFICE OF HOME ENERGY PROGRAMS.

26 (3) The Department of Human Resources may, with input from a panel
27 or roundtable of interested parties, contract with a for-profit or a nonprofit Maryland
28 corporation existing as of July 1, 1999 to assist in administering the universal service
29 program.

30 (4) The Commission shall have oversight responsibility for the universal
31 service program.

32 (5) The components of the universal service program shall include:

33 (i) bill assistance, at a minimum of 50% of the determined need;

34 (ii) low-income weatherization; and

1 (iii) the retirement of arrearages ~~that were incurred prior to the~~
 2 ~~initial implementation date~~ FOR ELECTRIC CUSTOMERS WHO HAVE NOT PREVIOUSLY
 3 RECEIVED ASSISTANCE IN RETIRING ARREARAGES UNDER THE UNIVERSAL SERVICE
 4 PROGRAM, NOT TO EXCEED A TOTAL OF \$1.5 MILLION IN ANY GIVEN FISCAL YEAR.

5 (6) IN A SPECIFIC CASE, THE UNIVERSAL SERVICE PROGRAM MAY
 6 WAIVE THE INCOME ELIGIBILITY LIMITATION UNDER PARAGRAPH (1) OF THIS
 7 SUBSECTION IN ORDER TO PROVIDE ASSISTANCE TO AN ELECTRIC CUSTOMER WHO
 8 WOULD QUALIFY FOR A SIMILAR WAIVER UNDER THE MARYLAND ENERGY
 9 ASSISTANCE PROGRAM ESTABLISHED UNDER ARTICLE 41, § 6-406 OF THE CODE.

10 (b) (1) (i) All customers [will] SHALL contribute to the funding of the
 11 universal service program through a charge collected by each electric company.

12 (ii) In the first 6 months after the initial implementation date, the
 13 Commission shall consider adjustments to the charges collected for the universal
 14 service program for persons that are not eligible for customer choice.

15 (2) The Commission shall determine a fair and equitable allocation for
 16 collecting the charges among all customer classes pursuant to subsection (d) of this
 17 section.

18 (3) [Any] ~~IN ACCORDANCE WITH SUBSECTION (F)(5)(H) (F)(5)~~ OF THIS
 19 SECTION, ANY unexpended universal service program funds returned to customers
 20 under subsection [(h)] (F) of this section shall be returned to EACH customer
 21 [classes] CLASS AS A CREDIT in the same [proportions as they were collected]
 22 PROPORTION THAT THE CUSTOMER CLASS CONTRIBUTED CHARGES TO THE FUND.

23 (4) An electric company shall recover universal service program costs in
 24 accordance with § 7-512 of this subtitle.

25 (5) The Commission shall determine the allocation of the universal
 26 service charge among the generation, transmission, and distribution rate components
 27 of all classes.

28 (6) The Commission may not assess the universal service surcharge on a
 29 per kilowatt-hour basis.

30 (c) (1) On or before December 1[, 1999, and on an annual basis thereafter]
 31 OF EACH YEAR, the Commission shall report, subject to § 2-1246 of the State
 32 Government Article, to the General Assembly on the universal service program,
 33 including:

34 ~~(+)~~ (1) subject to [subsections (d) and (e)] SUBSECTION (D) of this
 35 section, a recommendation on the total amount of funds for the program for the
 36 following fiscal year BASED ON:

37 ~~(+)~~ 1. THE LEVEL OF PARTICIPATION IN AND THE AMOUNTS
 38 EXPENDED FROM THE UNIVERSAL SERVICE PROGRAM DURING THE PRECEDING
 39 FISCAL YEAR;

1 ~~(H)~~ 2. HOW PAYMENTS TO CUSTOMERS WERE CALCULATED
2 DURING THE PRECEDING FISCAL YEAR;

3 ~~(H)~~ 3. THE PROJECTED NEEDS OF THE UNIVERSAL SERVICE
4 PROGRAM FOR THE NEXT FISCAL YEAR; AND

5 ~~(V)~~ 4. THE AMOUNT OF ANY SURPLUS CARRIED OVER IN THE
6 UNIVERSAL SERVICE PROGRAM FUND UNDER SUBSECTION (F)(5)(I) OF THIS SECTION;

7 ~~(2)~~ (II) for bill assistance:

8 ~~(i)~~ 1. the total amount of need, as determined by the
9 Commission, for electric customers with annual incomes at or below 150% of the
10 federal poverty level and the basis for this determination; and

11 ~~(ii)~~ 2. the percentage of need, as determined by the Commission,
12 but at a minimum of 50%, that should be funded through the universal service
13 program and the basis for this determination;

14 ~~(3)~~ (III) for low-income weatherization, the amount of funds needed, as
15 determined by the Commission, for measures that reduce consumption of energy by
16 electric customers with annual incomes at or below 150% of the federal poverty level
17 and the basis for this determination;

18 ~~(4)~~ (IV) the amount of funds needed, as determined by the Commission,
19 to retire arrearages ~~that were incurred prior to the initial implementation date by~~
20 FOR electric customers with annual incomes at or below 150% of the federal poverty
21 level WHO HAVE NOT PREVIOUSLY RECEIVED ASSISTANCE IN RETIRING
22 ARREARAGES UNDER THE UNIVERSAL SERVICE PROGRAM and the basis for this
23 determination;

24 (V) THE AMOUNT OF FUNDS NEEDED, AS DETERMINED BY THE
25 COMMISSION, FOR BILL ASSISTANCE, LOW-INCOME WEATHERIZATION, AND
26 ARREARAGE RETIREMENT, RESPECTIVELY, FOR CUSTOMERS FOR WHOM INCOME
27 LIMITATIONS MAY BE WAIVED UNDER SUBSECTION (A)(6) OF THIS SECTION, AND THE
28 BASIS FOR EACH DETERMINATION;

29 ~~(5)~~ (VI) the impact on customers' rates, including the allocation among
30 customer classes, from collecting the total amount recommended by the Commission
31 under item ~~(4)~~ (1) of this ~~subsection~~ PARAGRAPH; and

32 ~~(6)~~ (VII) the impact of using other federal poverty level benchmarks on
33 costs and the effectiveness of the universal service program.

34 (2) (1) TO ASSIST THE COMMISSION IN PREPARING ITS
35 RECOMMENDATIONS UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE OFFICE OF
36 HOME ENERGY PROGRAMS SHALL REPORT TO THE COMMISSION EACH YEAR ON:

37 1. THE NUMBER OF CUSTOMERS AND THE AMOUNT OF
38 DISTRIBUTIONS MADE TO FUEL CUSTOMERS UNDER THE MARYLAND ENERGY

1 is subject to the approval of the General Assembly through the enactment of
2 legislation.]

3 (g) Notwithstanding any other provision of this article, for the 3 years
4 immediately following the initial implementation date, electricity suppliers and
5 electric companies may not terminate, for an arrearage balance due on the initial
6 implementation date, the supply of electricity to a customer who receives assistance
7 under the universal service program under this section.

8 (h) (1) In this subsection, "fund" means the universal service program fund.

9 (2) There is a universal service program fund.

10 (3) (i) 1. The Comptroller shall collect the revenue collected by
11 electric companies under subsection (b) of this section and place the revenue into the
12 fund.

13 2. The General Assembly may appropriate funds
14 supplemental to the funds collected under sub-subparagraph 1 of this subparagraph.

15 (ii) The fund is a continuing, nonlapsing fund that is not subject to
16 § 7-302 of the State Finance and Procurement Article.

17 (iii) The purpose of the fund is to assist electric customers as
18 provided in subsection (a)(1) of this section.

19 (4) The Department of Human Resources, with oversight by the
20 Commission, shall disburse the funds in accordance with the provisions of this
21 section.

22 (5) (I) AT THE END OF A GIVEN FISCAL YEAR, ANY UNEXPENDED
23 FUNDS THAT WERE COLLECTED FOR THAT FISCAL YEAR SHALL BE RETAINED IN THE
24 FUND AND SHALL BE MADE AVAILABLE FOR DISBURSEMENT THROUGH THE ~~END~~
25 FIRST 3 MONTHS OF THE NEXT FISCAL YEAR TO CUSTOMERS WHO:

26 1. QUALIFY FOR ASSISTANCE FROM THE FUND DURING THE
27 GIVEN FISCAL YEAR; ~~AND~~

28 2. APPLY FOR ASSISTANCE FROM THE FUND BEFORE THE
29 END OF THE GIVEN FISCAL YEAR; AND

30 3. REMAIN ELIGIBLE FOR ASSISTANCE AT THE TIME
31 SERVICES ARE PROVIDED.

32 (II) IF THE COMMISSION DETERMINES THAT AN EXTENSION IS
33 NEEDED, THE COMMISSION MAY EXTEND UP TO AN ADDITIONAL 3 MONTHS THE
34 PERIOD IN WHICH UNEXPENDED FUNDS MAY BE MADE AVAILABLE FOR
35 DISBURSEMENT UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

1 ~~(H)~~ (III) [In any year when there are unexpended funds, those
 2 funds] ANY FUNDS COLLECTED FOR A GIVEN FISCAL YEAR THAT ARE RETAINED
 3 UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH AND THAT REMAIN UNEXPENDED AT
 4 THE END OF THE ~~NEXT FISCAL YEAR~~ PERIOD ALLOWED UNDER SUBPARAGRAPHS (I)
 5 AND (II) OF THIS PARAGRAPH shall be returned to [the customer classes proportionate
 6 to how the customer classes paid into] EACH CUSTOMER CLASS IN THE PROPORTION
 7 THAT THE CUSTOMER CLASS CONTRIBUTED CHARGES TO the fund FOR THE GIVEN
 8 FISCAL YEAR IN THE FORM OF A CREDIT TOWARD THE CHARGE ASSESSED IN THE
 9 FOLLOWING FISCAL YEAR.

10 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 7-512.1(g)
 11 and (h), respectively, of Article - Public Utility Companies of the Annotated Code of
 12 Maryland be renumbered to be Section(s) 7-512.1(e) and (f), respectively.

13 SECTION 3. AND BE IT FURTHER ENACTED, That, notwithstanding the
 14 requirements of § 7-512.1(b)(3) and (h)(5) of the Public Utility Companies Article and
 15 § 7-512.1(f)(5) of the Public Utility Companies Article, as enacted by this Act, the
 16 Public Service Commission may retain any unexpended funds in the electric universal
 17 service program fund at the end of June 30, 2003 and make the funds available for
 18 disbursement through June 30, 2004 to electric customers who:

- 19 (1) qualify for assistance from the fund during fiscal year 2002 or 2003;
 20 ~~and~~
- 21 (2) apply for assistance from the fund before July 1, 2003; and
- 22 (3) remain eligible for assistance at the time services are provided.

23 SECTION 4. AND BE IT FURTHER ENACTED, That the initial performance
 24 audit of the electric universal service program under § 7-512.1(c)(3) of the Public
 25 Utility Companies Article, as enacted by this Act, shall be completed on or before
 26 January 7, 2004.

27 SECTION ~~4~~ 5. AND BE IT FURTHER ENACTED, That Sections ~~1 and 2~~ 1, 2,
 28 and 4 of this Act shall take effect July 1, 2003.

29 SECTION ~~5~~ 6. AND BE IT FURTHER ENACTED, That, except as provided in
 30 Section ~~4~~ 5 of this Act, this Act shall take effect June 30, 2003.